



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE - SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CONTAINS ENFORCEMENT-SENSITIVE INFORMATION

MEMORANDUM

DATE: January 12, 2017

SUBJ: Request for a Ceiling Increase and Exemption from the Statutory \$2 Million Limits for a Continued Removal Action at the Anglo Enterprises Company Site, Webster, Worcester County, Massachusetts - **Action Memorandum Amendment**

FROM: Allen K. Jarrell, On-Scene Coordinator *Allen K. Jarrell*
Emergency Response and Removal Section I

THRU: Edward J. Bazen, Chief *ESB*
Emergency Response and Removal Section I

Carol Tucker, Chief *CT*
Emergency Planning & Response Branch

TO: Bryan Olson, Director *BO*
Office of Site Remediation and Restoration

I. PURPOSE

The purpose of this Action Memorandum (AM) is to request and document approval for an Exemption from the Statutory \$2 Million Limits for the Removal Action, and for an increase in the removal project ceiling from \$2,000,000.00 to \$3,000,000.00 to fund a continued removal action (RA) described herein at the Anglo Enterprises Company Site (the Site), located in Webster, Massachusetts. Asbestos-Containing Materials (ACM) that currently remains in the commingled fire/debris pile at the Site will continue to pose a threat to human health and the environment if not addressed by implementing the response actions selected in this AM. This RA is considered nationally significant or precedent-setting because asbestos is the principle contaminant of concern and was previously reviewed for concurrence by HQ OEM. There has been no use of the OSC's \$200,000 warrant authority.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID#: MAD 001125897
SITE ID#: 01MR
CATEGORY: Time-Critical

A. Site Location, Description and Characteristics

See Action Memorandum dated July 6, 2016

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B. Pertinent Actions Conducted by EPA Since the Approval of the Initial Action Memorandum:

- Conducted a pre-removal site walk with the cleanup contractor for removal planning.
- Conducted personnel and perimeter air monitoring and implemented dust control and suppression for worker protection and public health.
- Dismantled and demolished the unstable areas that are structurally unsafe to enable contractor personnel to conduct the RA. Dismantled the structural steel, construction/fire debris in the unstable sections to permit access to asbestos, and ACM commingled debris.
- Staged ACM and commingled debris in piles for disposal.
- Segregated, washed, and stockpiled the steel building debris. The steel was loaded and sent to an EPA-approved scrap metal recycler.

The reasons for requesting a ceiling increase and exemption from the \$2 million statutory limits are as follows:

1. ***Increased Cost due to the Removal of Asbestos Contaminated Material*** – While dismantling the unstable sections of the fire damaged building, significant amounts of additional ACM were found. This has resulted in a doubling of the estimated volume of ACM contaminated debris from 10,000 tons to 20,000 tons. As a result, an increased cost for T&D of approximately \$900,000 and additional onsite operation costs (\$100,000) will be necessary to complete the RA.
2. ***Additional Credits due to the Recycling of the Steel Building Debris*** – During operations to segregate the ACM contaminated debris, significant amounts of structural steel were encountered. This steel was cleaned, segregated from the other ACM debris, and removed from the Site as part of the cleanup action. Consistent with the December 23, 2013 memorandum issued by Assistant Administrator Stanislaus (2013 memo) as well as the Region 1 Clean and Greener Policy for Contaminated Sites, greener cleanup practices are considered for all cleanup projects. Greener cleanup is the practice of incorporating practices that minimize the environmental impacts of cleanup actions and maximize environmental and human benefit. In this case, the steel was sent to a recycler instead of being sent to a location landfill. A local scrap metal recycler paid approximately \$175,000 for the steel. At the request of the property owner, this money is being used to offset the cost of the removal action.

C. State and Local Authorities' Roles

See Action Memorandum dated July 6, 2016.

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D. National Priorities List Status

The Site is not on the National Priorities List (NPL), nor is there any activity to evaluate it for the NPL.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

A. THREATS TO PUBLIC HEALTH OR WELFARE

There have been no changes to the threats to public health or welfare since the original Action Memo of July 6, 2016.

B. THREATS TO THE ENVIRONMENT

There have been no changes to the threats to the environment since the original Action Memorandum of July 6, 2016.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. EXEMPTION FROM STATUTORY LIMITS

CERCLA Section 104(c) states that removal actions can exceed the \$2 million statutory limits if conditions meet either the emergency exemption criteria or the consistency exemption criteria. The consistency exemption requires that the proposed removal action be appropriate and consistent with the remedial action to be taken. As described below, conditions at the Site meet the criteria for the emergency exemption.

Emergency Exemption

Under CERCLA § 104(c)(1)(A), removal actions may exceed the \$2 million statutory limits if:

1. There is an immediate risk to public health or welfare or the environment;
2. Continued response actions are immediately required to prevent, limit, or mitigate an emergency; and
3. Such assistance will not otherwise be provided on a timely basis.

1. There is an immediate risk to public health or welfare or the environment if actions are not taken.

EPA commenced the removal activities in August 2016. To date, EPA has conducted personnel and perimeter air monitoring and implemented dust control and suppression, dismantled and demolished the unstable and structurally unsafe areas, dismantled the structural steel and segregated the steel from the ACM contaminated fire and construction commingled debris,

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washed and loaded the steel and sent it to an EPA-approved scrap metal recycler, and segregated the asbestos and ACM contaminated fire and construction debris. Friable and non-friable asbestos was found throughout the Site. Due to the massive fire at the Site on June 25, 2015, asbestos migrated throughout the Site and virtually every area was compromised. Since the whole Site is exposed to the environment and weather, the Site currently poses an imminent and substantial endangerment to the public health and the environment due to the release or threat of release of a hazardous substance. Airborne friable asbestos is a health threat to anyone walking on, traveling by or living near the Site.

Failure to approve the \$2 million exemption request for this removal action will result in the continued exposure of the public and the environment to these hazardous materials.

2. Continued response actions are immediately required to prevent, limit, or mitigate such threats.

Transportation and disposal of the ACM debris is all that remains of this RA. Continuation of the RA will be necessary to abate the public health and environmental threat. If the RA is terminated prior to its completion, friable asbestos will remain on site. Additional funds are requested in order to complete the RA and prompted this request for the \$2 million ceiling exemption.

3. Assistance will not otherwise be provided on a timely basis.

The State of Massachusetts lacked the resources to perform this RA and requested EPA assistance. The Town and site owner also lack the resources to perform this RA.

VI. Proposed Actions and Estimated Costs

1. Proposed Action Description

See Action Memorandum dated July 6, 2016.

2. Community Relations

See Action Memorandum dated July 6, 2016.

3. Contribution to Remedial Performance

This Site is not being assessed for inclusion to the NPL.

4. Description of Alternative Technologies

See Action Memorandum dated July 6, 2016.

5. Applicable or Relevant and Appropriate Requirements (ARARs)

See Action Memorandum dated July 6, 2016.

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The OSC anticipates that it will take four - six months to complete the remainder of the tasks under optimal working/weather conditions, i.e., the cleanup will be completed within the 12-month statutory limit from the original mobilization date of August 15, 2016.

7. Estimated Additional Costs for Continuing the Removal Action

COST CATEGORY	CURRENT CEILING	COSTS TO DATE	CEILING INCREASE	PROPOSED CEILING
REGIONAL REMOVAL ALLOWANCE COSTS:				
ERRS Contractor	\$1,400,000.00	\$300,000.00	\$1,000,000	\$2,400,000.00
OTHER EXTRAMURAL COSTS NOT FUNDED FROM THE REGIONAL ALLOWANCE:				
START Contractor	\$400,000.00	\$150,000.00	\$0.00	\$400,000.00
Extramural Subtotal	\$1,800,000.00	\$450,000.00	\$1,000,000	\$2,800,000.00
Extramural Contingency	\$200,000.00	\$0.00	\$0.00	\$200,000.00
TOTAL, REMOVAL ACTION CEILING	\$2,000,000.00	\$450,000.00	\$1,000,000	\$3,000,000.00

ERRS costs are a net and include \$175,000 credit for recycled steel. Costs to date are still significantly below the original ceiling due to the fact that the transport and disposal of ACM has not yet been performed, thus has not been expended. Site work to date has fully uncovered the increased volume and complexity of the removal action for an accurate increase estimate.

VII. OUTSTANDING POLICY ISSUES

This RA is considered nationally significant or precedent-setting because asbestos is the principle contaminant of concern. HQ OEM concurrence was granted for this RA on 7/14/2016.

VIII. ENFORCEMENT ... For Internal Distribution Only

See attached Enforcement Strategy.

The total EPA costs for this removal action practices that will be eligible for cost recovery are estimated to be \$3,000,000 (extramural costs) + \$200,000 (EPA intramural costs) = \$3,200,000 X 1.4867 (regional indirect rate) = \$4,757,440.¹

¹Direct Costs include direct extramural costs \$3,000,000 and direct intramural costs \$200,000. Indirect costs are calculated by using regional indirect rate in effect at time cost estimate is prepared, and is expressed as a percentage of the direct costs 48.67% x \$3,200,000, consistent with EPA's full cost accounting methodology effective October 1, 2016. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their

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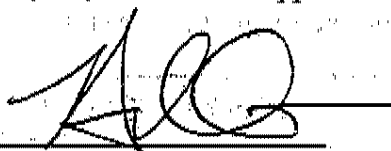
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IX. RECOMMENDATION

Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a removal and the CERCLA Section 104(c) criteria for an emergency exemption from the \$2 Million statutory limits. Thus, I recommend approval of the extramural ceiling increase of \$1,200,000. The estimated project total is \$4,757,440 of which approximately \$3,200,000 is the extramural cost.

APPROVAL: _____



DATE: _____

1/19/17

DISAPPROVAL: _____

DATE: _____

use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.